

Senate Bill 315

CONTRACTORS

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Summary

SB 315 addresses several issues the Contractors State License Board (CSLB) has identified with existing law.

First, the bill authorizes CSLB enforcement representatives to more effectively carry out the activities of the Joint Enforcement Strike Force on the Underground Economy.

Second, the bill modifies the provisions under which an unlicensed person may advertise construction work to limit it work which an unlicensed person is legally able to do under the law – where the aggregate contract price for labor, material, and all other items on a project or undertaking is less than \$500.

Third, the bill clarifies that contractors whose licenses have been suspended either for failure to pay an outstanding civil judgment or for an outstanding tax liability, yet who continue to act as a contractor, are considered unlicensed contractors.

Fourth, the bill amends the existing requirement for CSLB to act on certain Labor Code violations within 30 days, to extend the timeframe for action to 180 days.

Existing Law

(1) Business and Professions Code (BPC) § 7011.4 establishes a separate enforcement division in the CSLB, which shall rigorously enforce the chapter prohibiting all forms of unlicensed activity. To regulate unlicensed activity, Enforcement Representatives from the CSLB may issue a written notice to appear in court to a non-licensee found to be engaging in business without a contractor license.

When enforcing provisions in Unemployment Insurance Code (UIC) § 329, CSLB Enforcement Representatives, as members of the Joint Enforcement Strike Force (JESF), have free access to all places of labor exhibiting underground economy behavior when the Division of Labor Standard Enforcement (DLSE) is present during the inspection. This statute, pursuant to Executive Order W-66-93, defines the duties and enforcement authority of the JESF to combat the statewide problem of:

- License Requirements (CSLB)
- Employee Tax Withholding (EDD)
- Labor Code Violations (DLSE)
- Workers Compensation Fraud (CDI)

(2) Existing law authorizes an unlicensed contractor to publicly advertise services, providing “that he or she shall state in the advertisement that he or she is not licensed.” (license is not required for work under \$500). (BPC §§ 7027.2, 7048)

(3) Existing law makes it a misdemeanor for an unlicensed contractor to advertise for construction or work of improvements or act in the capacity of a contractor; and imposes specified civil penalties, including fines and imprisonment against the unlicensed contractor, and authorizes CSLB to cite the unlicensed contractor. (BPC § 7028)

(4) Existing law requires that CSLB “initiate disciplinary action against the licensee within 30 days of notification” by the DLSE, that a contractor has been found in “willful or deliberate violation of the Labor Code.” Under existing procedures, CSLB reviews each DLSE referral when it is received. If the violation or Civil Wage and Penalty Assessment (CWPA) is egregious, CSLB will initiate an investigation

with the intent of pursuing discipline on the license. (BPC § 7110.5)

Why Is This Bill Needed?

- Construction is the number one trade contributing to the underground economy. The JESF does an effective job to combat this prevalent problem; however the reality is the DLSE is not always present for CSLB JESF operations due to resource restrictions. CSLB is the state agency responsible for regulating construction and as such, needs clear statutory authority to access business locations where labor is present when DLSE is not readily available to participate in joint efforts to combat underground economy behavior.

SB 315 provides CSLB clear statutory authority to access business locations where labor is present. This will assist in CSLB's efforts to investigate reports of unlicensed construction activity, which is a significant piece of California's underground activity. (BPC § 7011.4)

- Unlicensed contractors routinely use the exemption provided in Business and Professions Code Section 7027.2 to openly advertise their services for any and all construction services, including large-scale projects that are clearly in excess of the \$500 limit prescribed by law.

SB 315 clarifies that an unlicensed individual can only advertise for work under the \$500 limit. (BPC § 7027.2)

- Contractors with suspended licenses are continuing to enter into contracts and creating a public safety risk. Many of these licenses were suspended due to failure to pay a civil judgment pursuant to BPC § 7071.17, where such judgments were usually for unsatisfactory workmanship or unscrupulous business practices.

SB 315 clarifies the definition of "unlicensed" contractor to address contractors who have had their licensed suspended either for failure to pay an

outstanding civil judgment or for an outstanding tax liability. This amendment will allow CSLB to pursue criminal charges when appropriate against a contractor who continues to contract for work while holding a license suspended for outstanding civil judgments or tax liabilities. This provision was in SB 263 (Monning, 2013) which was eventually a gut & amend to a different issue. There was no opposition raised to these amendments, and there was widespread support among the contractor groups. (BPC § 7028)

- CSLB is required to "initiate disciplinary action against the licensee within 30 days of notification" by DLSE. CSLB cannot meet that narrow timeframe for all referrals.

SB 315 expands that timeframe to 180 days for CSLB to take action on referrals from the Labor Commissioner. (BPC § 7110.5)

Support

Contractors State License Board (Sponsor)
Air Conditioning and Refrigeration Contractors Association (ARCA)
Air Conditioning Sheet Metal Association
American Subcontractors Association,
California Inc.
California Chapters of the National Electrical Contractors Association (NECA)
California Legislative Conference of the Plumbing, Heating and Piping Industry (CLC)
United Contractors

Do You Support SB 500?

Please send a letter of support to:
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